

Exhibit C

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF PENNSYLVANIA

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EVELYN L. MCKINLEY,)
)
Plaintiff,)
) Civil Action
vs.) No. 04-222E
)
HONORABLE LES BROWNLEE,)
)
ACTING SECRETARY OF THE ARMY,)
)
Defendant.)

- - -

Deposition of ROBIN L. GREEN

Thursday, November 17, 2005

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The deposition of ROBIN L. GREEN, called as a witness by the defendant, pursuant to notice and the Federal Rules of Civil Procedure pertaining to the taking of depositions, taken before me, the undersigned, Darla J. Carabotta, Notary Public in and for the Commonwealth of Pennsylvania, at the offices of the United State Attorney, 17 South Park Row, Room A-330, Erie, Pennsylvania 16507, commencing at 10:30 o'clock a.m., the day and date above set forth.

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- - -

ORIGINAL

1 Q. So from 1992 to today you have been fully employed at
2 the Vocational Rehab Services?

3 A. Correct.

4 Q. And what is your title there?

5 A. RN Case Manager.

6 Q. Has that been the same title since 1992?

7 A. Yes.

8 Q. Have you received any promotions whatsoever in that
9 position?

10 A. No. We are a small company.

11 Q. Any disciplinary problems whatsoever in your tenure
12 there?

13 A. No.

14 Q. How did you become involved with being a contract nurse
15 for -- first of all, do you have any involvement as a contract
16 nurse with the Labor Department?

17 A. Yes.

18 Q. And what is that involvement?

19 A. I have worked as a contract nurse since 1995 with
20 workers' compensation cases.

21 Q. And how did you hear about this position?

22 A. Through my employer, Vocational Rehabilitation Services.

23 Q. Why did you choose to accept the position?

24 A. We do a variety of work for different insurance
25 companies, this was just another opportunity to maintain a

1 caseload.

2 Q. Is it fair to say this is also sort of like a
3 moonlighting job, or a second job?

4 A. No, it's not. I mean, I am contracted with the
5 Department of Labor, but I did sign a waiver that everything
6 goes through Vocational Rehabilitation Services, and that I
7 receive my standard pay from them.

8 Q. I see. So in some of the documentation that we have
9 from the workers' comp file, there's a number of hours and pay
10 charges on there, is it your testimony that that doesn't go
11 directly to you?

12 A. Correct.

13 Q. So from 1995 to the present have you continuously done
14 work for the Labor Department in the workman's comp area?

15 A. Yes.

16 Q. And what is the title of your position with the workers'
17 compensation program with the Labor Department?

18 A. Normally it's referred to as a contract nurse, or a
19 rehabilitation nurse.

20 Q. Is it ever referred to as a field nurse?

21 A. Yes.

22 Q. And have you worked with the workers' comp program of
23 the Labor Department continuously from 1995 to the present?

24 A. Yes. They have recertifications, so I was certified to
25 work with them in 1995, and then again in 2000, and I've just

1 current light duty position is.

2 Q. But I believe my question was did you ever analyze
3 whether this current position was within her work restrictions,
4 medical restrictions?

5 A. As far as actually analyzing, that's where it comes into
6 play, that if there is a question, that we write it up and we
7 send it to the physician for the physician to make that
8 determination.

9 Q. And did you do that in this case?

10 A. Yes, um-hum.

11 Q. And what did the physician in this case -- well, who was
12 the physician in this case?

13 A. Dr. Dalton, Brian Dalton, he's a neurosurgeon.

14 Q. And is it your testimony that he received this job
15 description?

16 A. Yes, he did. If I remember correctly, after reviewing
17 the records, there were a few minor issues that Ms. McKinley had
18 with the job, one specifically was the telephone on the wall,
19 and that particular function was eliminated. And then based on
20 the meeting, where I met with the agency and also with
21 Ms. McKinley, a position was developed, and that was approved by
22 Dr. Dalton.

23 Q. Okay. Let's talk about that, the modification of the
24 position. Can you turn to your report of January 4th on page
25 37? Okay. And specifically on the top of page 38, there's an

1 indication that the plaintiff complained; is that correct?

2 A. Yes.

3 Q. And when you turn to your "EA Contact" on 39, do you
4 recall what the nature of Ms. McKinley's complaint was?

5 A. According to this, she complained of the telephone
6 location, and that the manuals she was working with weighed over
7 ten pounds.

8 Q. Do you recall the circumstances surrounding any of those
9 two complaints?

10 A. Yes. According to the report, I spoke with Mr. Morrell,
11 and he indicated that the phone was located on the wall in front
12 of her desk and it did require reaching, but he had eliminated
13 that activity from her job task list.

14 Also, he indicated that some of the manuals may be over
15 ten pounds, and those manuals could be brought to her desk by
16 other employees.

17 Q. So did you have any role in remedying Ms. McKinley's
18 complaints about these two areas, the telephone location and the
19 manuals?

20 A. Yes, I did. I think in talking with the patient and
21 finding out the areas that concerned her, and then talking with
22 Mr. Morrell, the agency representative, we were able to work out
23 those issues.

24 Q. And how was your communication conducted with
25 Mr. Morrell, by phone or in person?

1 A. Both.

2 Q. And did you have just one or numerous contacts with
3 supervisors or Mr. Morrell at the Army installation?

4 A. I had telephone contact with agency representatives,
5 Mr. Morrell and others. On-site visits, I believe there was
6 just the one visit on December 18th, 2001.

7 Q. And were the, I will call them "agency" or "Army
8 officials," were they cooperative with this job situation of
9 Ms. McKinley's?

10 A. Yes.

11 Q. In your investigation, and I guess I'll call it
12 mediation between Ms. McKinley and the employers, did you find
13 any evidence that the Army was purposely creating a job that
14 exceeded her medical restrictions?

15 A. No.

16 Q. Was there any evidence or resistance in moving this
17 phone initially that you found from your investigation?

18 A. They didn't move the phone, they eliminated the task.

19 Q. Was there any resistance in eliminating that task?

20 A. No.

21 Q. Was there any resistance or uncooperativeness in the
22 manual situation, bringing manuals to her?

23 A. No.

24 Q. In your investigation did you find any adverse
25 circumstances surrounding the Army's accommodation of

1 Ms. McKinley's complaint?

2 A. No.

3 Q. Now, you mentioned an on-the-job, like a site analysis
4 on December 18th, what was that for?

5 A. That was to look at the limited duty position
6 Ms. McKinley was performing, and to meet with the agency and
7 Ms. McKinley to discuss the job duties. Based on that, a
8 written report and description was developed and sent to
9 Dr. Dalton for his review.

10 Q. And what was the result of that inquiry?

11 A. Dr. Dalton approved the limited duty position.

12 Q. Did Ms. McKinley herself, besides these two complaints,
13 have any other complaints concerning this limited duty
14 position?

15 A. According to the records I have in front of me, it
16 appears that Ms. McKinley performed that full-time limited duty
17 position from November 19, 2001 until approximately March 10,
18 2002.

19 Q. And what happened on March 10, 2002?

20 A. Well, I received a telephone call from the employing
21 agency that Ms. McKinley had missed work on March 11th and March
22 12th.

23 Q. And what was the reason for her absence?

24 A. Specifics, I'm not certain. When I called Ms. McKinley,
25 she said it was the same problem, she had a bad back.

1 A. It was something that I had talked with the staff nurse
2 about in terms of pursuing employment options for Ms. McKinley.

3 Q. Employment options where?

4 A. With the agency or with another facility.

5 Again, from memory, usually if the agency is willing to
6 provide a job, they have me assist in coordinating that, just
7 like I did this time, they would have me do that again. I never
8 did that. So to the best of my knowledge, there was not a
9 position available within those restrictions.

10 Q. And this was after Dr. Welch had provided restrictions,
11 correct?

12 A. To the best of my memory.

13 You have to remember, I have a lot of cases, and this
14 was a lot of years ago.

15 Q. Right. And I didn't ask you that question, I missed it
16 on my list here. But, your experience as a field nurse, how
17 many cases approximately do you handle a year similar to this,
18 workers' comp cases?

19 A. I usually have between 20 and 30 every month. Those
20 vary at length of time, because I work with regular health
21 insurance companies as well as OWCP Department of Labor. So
22 some cases may be opened for a limited assignment, one visit,
23 some may be open for four months.

24 Q. So your caseload is quite high, is that what you are
25 saying?